



January 25, 2008

SENATE BILL No. 188

DIGEST OF SB 188 (Updated January 23, 2008 3:59 pm - DI 106)

Citations Affected: IC 24-1.

Synopsis: Recovery for restraint of trade. Authorizes the attorney general to bring suit on behalf of the state or a political subdivision to recover for injuries or damages suffered directly or indirectly as a result of certain unlawful acts in restraint of trade. Provides that a prevailing plaintiff is also entitled to treble damages and reasonable costs and attorney's fees.

Effective: July 1, 2008.

Ford, Bray

January 8, 2008, read first time and referred to Committee on Judiciary.
January 24, 2008, reported favorably — Do Pass.

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SB 188—LS 6774/DI 106+



January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 188

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-1-1-5.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 5.1. (a) The attorney general may bring an action on**
4 **behalf of the state or a political subdivision (as defined in**
5 **IC 34-6-2-110) for injuries or damages sustained directly or**
6 **indirectly as a result of a violation of this chapter.**

7 **(b) An action under this section may be brought, without respect**
8 **to the amount in controversy, in a circuit or superior court in a**
9 **county:**

10 **(1) in which the defendant resides or is engaged in business;**
11 **or**

12 **(2) in which service may be obtained.**

13 **(c) If the judgment in an action brought under this section is in**
14 **favor of the plaintiff, the plaintiff is entitled to recover a penalty of**
15 **threefold the damages awarded in the action, plus reasonable costs**
16 **and attorney's fees.**

17 SECTION 2. IC 24-1-2-5.1 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2008]: **Sec. 5.1. The attorney general may bring an action on**
3 **behalf of the state or a political subdivision (as defined in**
4 **IC 34-6-2-110) for injuries or damages sustained directly or**
5 **indirectly as a result of a violation of this chapter.**

6 SECTION 3. IC 24-1-2-7 IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2008]: **Sec. 7. (a) Any person who shall be**
8 **injured in his whose business or property is directly or indirectly**
9 **injured by any person or corporation by reason of the doing by any**
10 **person or persons of anything forbidden or declared to be unlawful by**
11 **a violation of this chapter may sue therefor bring an action in the**
12 **circuit or superior court of any county in which the defendant or**
13 **defendants or any of them, reside resides or are is found, without**
14 **respect to the amount in controversy. and shall**

15 **(b) If the judgment in an action brought under this section is in**
16 **favor of the plaintiff, the plaintiff is entitled to recover a penalty of**
17 **threefold the damages which may be sustained awarded in the action,**
18 **together with the costs of suit, including a reasonable attorney's fee.**
19 **fees.**

20 **(c) The attorney general may bring an action under this section**
21 **on behalf of the state or a political subdivision.**

22 SECTION 4. IC 24-1-3-3.1 IS ADDED TO THE INDIANA CODE
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 2008]: **Sec. 3.1. The attorney general may bring an action on**
25 **behalf of the state or a political subdivision (as defined in**
26 **IC 34-6-2-110) for injuries or damages sustained directly or**
27 **indirectly as a result of:**

28 **(1) a contract or combination described in section 1 of this**
29 **chapter; or**

30 **(2) a violation of this chapter.**

31 SECTION 5. IC 24-1-3-4 IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2008]: **Sec. 4. (a) Any person who shall, by any**
33 **such has suffered injuries or damages as a result of a contract or**
34 **combination as set out described in section 1 of this chapter be injured**
35 **or damaged in his business thereby; or by reason of anything forbidden**
36 **or declared by this chapter to be unlawful; may maintain a suit therefor**
37 **in any or by any other violation of this chapter may bring an action**
38 **in a circuit or superior court having jurisdiction: thereof**

39 **(1) in the county where the defendant resides or in which he is**
40 **engaged in business; or**

41 **(2) in any county where service may be obtained;**

42 **without respect to the amount in controversy. and the plaintiff in any**

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2 (b) If the judgment in an action brought under this section shall
3 be is in favor of the plaintiff, the plaintiff is entitled to recover all his
4 threefold damages awarded in the action, plus reasonable costs and
5 a reasonable attorney's fee therein. fees.

6 (c) The attorney general may bring an action under this section
7 on behalf of the state or a political subdivision.

8 SECTION 6. IC 24-1-4-4 IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Any person or persons or
10 corporations that may be injured or damaged by any such who has
11 suffered injuries or damages as a result of an arrangement, a
12 contract, an agreement, a trust, or a combination described in section
13 1 of this chapter may sue for and recover bring an action in any court
14 of competent jurisdiction in this state of any person, persons, or
15 corporations operating such trust or combination to recover the full
16 consideration or sum paid by him or them the person for any goods,
17 wares or merchandise, or article the sale of which is controlled by such
18 the combination or trust.

19 (b) If the judgment in an action brought under this section is in
20 favor of the plaintiff, the plaintiff is entitled to recover a penalty of
21 threefold the damages awarded in the action, plus reasonable costs
22 and attorney's fees.

23 (c) The attorney general may bring an action under this section
24 on behalf of the state or any political subdivision (as defined in
25 IC 34-6-2-110) that has been directly or indirectly injured or
26 damaged by:

- 27 (1) an arrangement, an agreement, a trust, or a combination
28 described in section 1 of this chapter; or
29 (2) any other violation of this chapter.

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SENATE MOTION

Madam President: I move that Senator Bray be added as second author of Senate Bill 188.

FORD

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 188, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 188 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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